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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Stephen R. Lawrence

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EXAMINER

VERDI, KIMBLEANN C

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/814,952	<b>Applicant(s)</b> LAWRENCE ET AL.	
	<b>Examiner</b> KimbleAnn Verdi	<b>Art Unit</b> 2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>September 7, 2007</u>   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claims 1-36 are pending in the current application.

#### ***Claim Objections***

1. Claims 1, 4, 19, 22, 23, 24, 26 and 36 are objected to because of the following informalities:
  - a. claims 1, 4, 19, 22, 23, 24, and 36 the recitation of "the term", should be "the term of an article", for example claim 1, lines 4 and 6; and
  - b. claim 26, line 2 the recitation of "system resources", should be "the system resources".
  - c. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 7 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. Claim 7 the recitation of "sending the event to the second device when a resource level of the system is above a desired level" is not disclosed in the specification. Thorough review of the specification by the Examiner did not result in finding of the subject matter properly disclosed in the specification.

5. Claim 14 the recitation of "the event is not accepted by the second device when the system resources are below a threshold value" contains a negative limitation which does not have basis in the original disclosure. Thorough review of the specification by the Examiner did not result in finding of the subject matter properly disclosed in the specification.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. The term "associating" in claim 35 is a relative term which renders the claim indefinite. The term "associating" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

An event ID and new event ID are rendered indefinite by the use of the term “associating”. For purposes of examination associating an event ID and new event ID is interpreted as generating and assigning an event ID and new event ID.

9. The term "second client" in claim 35 is a relative term which renders the claim indefinite. The term "second client" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Sending the event is rendered indefinite by the use of the term “second client” because there is no limitation of a first client. For purposes of examination sending the event to a second client is interpreted as sending the event to a client.

10. The term "providing" in claim 35 is a relative term which renders the claim indefinite. The term "providing" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

A First Index and a Second Index are rendered indefinite by the use of the term “providing”. For purposes of examination providing a First Index and a Second Index is interpreted as generating a First Index and a Second Index.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-6, 15-18, 19-24, and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over 6,006,222 to Culliss in view of 2005/0033803 A1 to Vleet et al. (hereinafter Vleet), and further in view of 2004/0143569 A1 to Gross et al. (hereinafter Gross).

13. As to claim 1, Culliss teaches the invention substantially as claimed including a method comprising:

the event being captured in the first device and associated with a term of an article, the event being indexed and associated with the term in a first index of the first device; and

Culliss does not explicitly disclose receiving in a second device an event from a first device; and indexing the event in a second index of the second device such that the event is associated with the term in the second index.

However Vleet teaches receiving in a second device an event from a first device (paragraphs [0025]-[0026] and [0078]).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the search engine server of Culliss with the teachings of a event history server from Vleet because this feature would have provided an event history server system that persistently stores event data descriptive of events that occur during browsing sessions of web site users (paragraph [0007] of Vleet).

In addition Gross teaches indexing the event in a second index of the second device (paragraph [0069]) such that the event is associated with the term in the second index (paragraph [0041]).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have further modified the search engine server of Culliss as modified by Vleet with the teachings of a search apparatus from Gross because this feature would have further provided an index module configured to generate at least a first index, including one or more indexes of email, files, and Web pages, and a search module configured to perform incremental searching of the first index as the user enters characters into at least a first attribute search field (paragraph [0014] of Gross).

14. As to claim 2, Culliss teaches wherein one or more of the first device and the second device is a client device (col. 12, lines 44-50 and col. 13, lines 12-15).

15. As to claim 3, Culliss teaches wherein one or more of the first device and the second device is a server device (col. 12, lines 44-50 and col. 13, lines 12-15).

16. As to claim 4, Culliss teaches wherein the term is associated with a plurality of events Ids (col. 3, lines 61-67 and col. 4, lines 1-25), the plurality of event IDs associated with a plurality of events (col. 4, lines 1-25).

17. As to claim 5, Culliss teaches wherein the event is stored in a queue (col. 13, lines 50-53).

18. As to claim 6, Culliss teaches wherein the plurality of events is stored in a database (col. 13, lines 50-53).

19. As to claim 15, Culliss as modified teaches wherein the first index is located on a client computer (paragraph [0014] of Gross) and the second index is located on a network server (paragraphs [0039], [0064] and [0069], User Terminal 104 and Computer System 111, Fig. 1 of Gross).



20. As to claim 16, Culliss teaches the method of claim 1, wherein the first index is located on a first client computer (paragraph [0014] of Gross) and the second index is located on a second client computer (paragraphs [0039], [0064] and [0069], User Terminal 104 and Computer System 111, Fig. 1 of Gross).

21. As to claim 17, Culliss teaches wherein at least one of the first index and second index is encrypted (col. 3, lines 56-60).

22. As to claim 18, Culliss teaches wherein at least one of the first index and second index is searchable over a network (col. 12, lines 44-50 and col. 13, lines 12-15).

23. As to claims 19-24, these claims are rejected for the same reasons as claims 1-6 respectively, see the rejections to claims 1-6 above.

24. As to claims 31-34, these claims are rejected for the same reasons as claims 15-18 respectively, see the rejections to claims 15-18 above.

25. As to claim 35, Culliss teaches the invention substantially as claimed including a method comprising:

capturing an event, the event comprising event data (e.g. search query from user, col. 3, lines 56-67 and col. 4, lines 10-12);

associating an event ID with the event (col. 3, lines 51-54 and col. 4, lines 1-25);

the first index comprising a plurality of terms associated with a plurality of events (col. 3, lines 61-67 and col. 4, lines 1-25);

associating the event ID with each of the terms in the first index that comprise the event (col. 3, lines 51-67 and col. 4, lines 1-25);

storing the event in a first database (col. 13, lines 50-53);

retrieving the event (col. 12, lines 50-54);

associating a new event ID with the new event (col. 3, lines 61-67 and col. 4, lines 1-25);

the second index comprising a plurality of terms associated with a plurality of events (col. 3, lines 61-67 and col. 4, lines 1-25);

associating the new event ID with terms in the second index that comprise the new event (col. 3, lines 51-67 and col. 4, lines 1-25);

Culliss does not explicitly disclose providing a first index;

providing a second index;

sending the event to a second client;

receiving the event as a new event, the new event comprising event data; and

storing the new event in a second repository, wherein the second index and the second database are substantially the same as the first index and the first repository.

However Vleet teaches sending the event to a second client (paragraph [0028]);

receiving the event as a new event (paragraph [0025]), the new event comprising event data (paragraphs [0025]-[0026]).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the search engine server of Culliss with the teachings of a event history server from Vleet because this feature would have provided an event history server system that persistently stores event data descriptive of events that occur during browsing sessions of web site users (paragraph [0007] of Vleet).

In addition Gross teaches providing a first index (paragraph [0014]);  
providing a second index (paragraph [0069]); and  
storing the new event in a second repository (paragraph [0069]), wherein the second index and the second database are substantially the same as the first index and the first repository (paragraph [0064]).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have further modified the search engine server of Culliss as modified by Vleet with the teachings of a search apparatus from Gross because this feature would have further provided an index module configured to generate at least a first index, including one or more indexes of email, files, and Web pages, and a search module configured to perform incremental searching of the first index as the user enters characters into at least a first attribute search field (paragraph [0014] of Gross).

26. As to claim 36, this claim is rejected for the same reasons as claim 1, see the rejection to claim 1 above.

27. Claims 7-14 and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over 6,006,222 to Culliss in view of 2002/0049608 A1 to Hartsell et al. (hereinafter Hartsell).

28. As to claim 7, Culliss does explicitly disclose monitoring system resources prior to sending the plurality of events to a second machine.

However Hartsell teaches monitoring system resources; and sending the event (e.g. content data) to the second device (paragraph [0188]) when a resource level of the system resources is below a desired level (paragraph [0196]).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the networked computer system of Culliss with the teachings of content delivery system from Hartsell because this feature would have provided a mechanism to solve unpredictability, delivery latencies, capacity planning, and other problems associated with general application serving in a computer network environment, for example, in the delivery of streaming media, data and/or services (paragraph [0009] of Hartsell).

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29. As to claim 8, Culliss as modified teaches wherein monitoring system resources comprises monitoring available memory on the first device (paragraph [0194] of Hartsell).

30. As to claim 9, Culliss as modified teaches wherein monitoring the system resources comprises monitoring available memory on the second machine (e.g. by monitoring agent on second device (paragraph [0194])).

31. As to claim 10, Culliss as modified teaches wherein monitoring the system resources comprises monitoring bandwidth, network latency, jitter, or cost (paragraph [0095]).

32. As to claim 11, Culliss as modified teaches wherein monitoring the system resources comprises monitoring server activity (paragraphs [0191]-[0192]).

33. As to claim 12, Culliss as modified teaches wherein monitoring the system resources comprises monitoring client activity (paragraphs [0191]-[0192]).

34. As to claim 13, Culliss as modified teaches holding the event in a queue (e.g. not accepting requests) when the system resources are below a threshold value (paragraph [0196]).

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35. As to claim 14, Culliss as modified teaches wherein the event is not accepted by the second device when system resources are below a threshold value (paragraphs [0195]-[0196]).

36. As to claims 25-29, these claims are rejected for the same reasons as claims 7-11 respectively, see the rejections to claims 7-11 above.

37. As to claim 30, this claim is rejected for the same reasons as claim 13, see the rejection to claim 13 above.

### ***Response to Arguments***

38. Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

39. The prior art made of record on the accompanying PTO-892 and not relied upon, is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KimbleAnn Verdi whose telephone number is (571)270-1654. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KV  
March 27, 2008

/VAN H NGUYEN/

Primary Examiner, Art Unit 2194